

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

SARAH A. D'ANNIBALE,

06-CV-1202-ST

Plaintiff,

ORDER

v.

MICHAEL J. ASTRUE, Commissioner
of the Social Security
Administration, and the SOCIAL
SECURITY ADMINISTRATION,

Defendants.

DAVID B. LOWRY
9900 S.W. Greenburg Road
Columbia Business Center, Suite 235
Portland, OR 97223
(503) 245-6309

Attorney for Plaintiff

KARIN J. IMMERGUT
United States Attorney
NEIL J. EVANS
Assistant United States Attorney
1000 S.W. Third Avenue, Suite 600
Portland, OR 97204-2902
(503) 727-1053

MICHAEL McGAUGHRAN

Office of the General Counsel

DAVID M. BLUME

Social Security Administration

701 Fifth Avenue, Suite 2900

M/S 901

Seattle, WA 98104

(206) 615-2730

Attorneys for Defendant

BROWN, Judge.

Magistrate Judge Janice M. Stewart issued Findings and Recommendation (#34) on May 17, 2007, in which she recommended granting Defendants' Motion to Dismiss (#14) Counts 2 and 3 of Plaintiff's First Amended Complaint. Plaintiff filed timely objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also United States v. Bernhardt*, 840 F.2d 1441, 1444 (9th Cir. 1988); *McDonnell Douglas Corp. v. Commodore Business Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981), *cert. denied*, 455 U.S. 920 (1982).

This Court has carefully considered Plaintiff's Objections and concludes her Objections do not provide a basis to modify the

Findings and Recommendation. This Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Stewart's Findings and Recommendation (#34) and, accordingly, **GRANTS** Defendants' Motion to Dismiss (#14) Counts 2 and 3 of Plaintiff's First Amended Complaint.

IT IS SO ORDERED.

DATED this 25th day of June, 2007.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge